

REMARKS

The Office Action dated December 10, 2007 has been fully considered by the Applicant.

Claims 1 through 5, 7 and 8 have been canceled without prejudice to Applicant's rights.

The rejection of Claims 6, 10 and 12 under 35 U.S.C. §102(b) or 35 U.S.C. §103(a) as unpatentable over Laszlo (U.S. Patent No. 4,608,020) is respectfully traversed. Laszlo (U.S. Patent No. 4,608,020) neither discloses nor suggests a denture tooth with sides and a bottom forming a receptacle between the sides. In particular, Laszlo does not teach or disclose a bottom for a denture tooth forming a receptacle.

Independent Claim 6, line 4, sets forth a denture "tooth provided with sides and a bottom forming a receptacle . . ."

The Examiner states on page 2 of the Office Action that "Laszlo teaches a tooth 4 provided with sides at 31 and bottom as shown at the bottom of hollowed out portion 30, Figs. 2 and 3 . . ."

In reality, as best seen in Figures 2 and 3 of Laszlo, the portion with reference numeral 1 relied on by the Examiner as a bottom is repeatedly referred to as a "base plate 1 of wax" (col. 3, line 16). The base wax 1 does not form a part of the denture tooth as claimed in the present invention and is simply an intermediate step and element in order to embed the tubular hollowed teeth forms therein. In the case of Laszlo, the base wax is used as a casting pattern in order to make a mold and is not part of the tooth itself. In the present invention, the tooth itself includes sidewalls and a bottom which together form a receptacle. Accordingly, Laszlo does not anticipate or make obvious the denture tooth having a bottom specifically claimed in independent Claim 6.

Moreover, independent Claim 6, line 5, sets forth the limitation of "at least one undercut notch in the receptacle to retain a resin filling the receptacle . . ." The hourglass tubes relied on by the

Examiner, do not result in sidewalls with either an undercut or a notch. The tubular form 3 disclosed in Laszlo is not for the purpose of forming a receptacle for the resin which will form part of the tooth. Instead, the tubular form 4 in Laszlo holds wax which is used as an introductory and interim step in order to form a mold which will be used to create a denture tooth. The structure and arrangement of elements as claimed in the present invention results in a denture tooth which can be utilized without the further interim steps of inserting wax, producing a mold from the wax, and producing a tooth thereafter.

Claims 10 and 14 are dependent on Claim 6 and are believed allowable for all the same reasons.

The rejection of Claims 9, 11, 13, 16 and 18 under 35 U.S.C. §103(a) as unpatentable over Opotow (U.S. Patent No. 2,309,270) in view of Laszlo is respectfully traversed.

As set forth above with respect to Claim 6, as clearly conveyed in independent Claim 9, a denture tooth is provided having sides and a bottom forming a receptacle. In Laszlo, no tooth bottom is provided.

Additionally, an undercut or notch is not provided in the sides of the special tooth housing to retain a resin material.

Additionally, while Opotow may suggest a central bearing device, Opotow does not include a denture tooth housing with a receptacle and is, thus, ineffective in contour molding of a denture tooth's occlusal surface. Laszlo uses wax to be inserted in the hollow tubular form 4. Accordingly, combining Laszlo with Opotow would not result in a workable device at all.

Moreover, it is untenable to combine Opotow (Patent No. 2,309,270) with Laszlo (Patent No. 4,608,0200. The only rationale set forth by the Examiner is as follows: "It would be obvious to one

of ordinary skill in the art to modify Opotow to include a tooth housing as shown by Laszlo in order to better obtain the desired occlusion by an art known alternative method.” According to the USPTO’s own Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of the Supreme Court Decision in KSR International Co. v. Teleflex Inc., found at 72 Fed. Reg. 57,526, 57,528-57,529,

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn* stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”

(Emphasis added). One such rationale is based on the TSM test. *Id.* at 57,529. Another is “[c]ombining prior art elements according to known methods to yield predictable results.” *Id.* This is a mere conclusory statement, taken almost directly from the suggested rationales listed in the Examination Guidelines. There is no articulated reasoning with rational underpinnings supporting the legal conclusion of obviousness. In particular, the Examiner failed to resolve the Graham factual inquiries, also listed in the Examination Guidelines.

In relying on this rationale, the Examination Guidelines quotes *KSR*: “[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *Id.* The Examination Guidelines go on to state, “If any of these findings [from the Graham factual inquiries] cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art.” *Id.* A further argument against the Examiner’s factual findings is not possible, as the Examiner failed to include such factual findings, based on the Graham factual inquiries, in the Office Action.

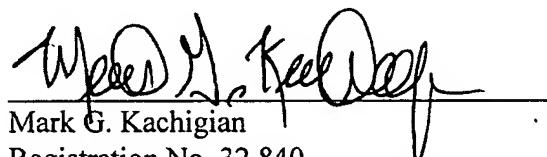
In summary, the Examiner has failed to state a *prima facie* case for the combination of two disparate references.

Claims 11, 12, 13, 16, 17 and 18 are dependent on Claim 9 and believed allowable for all of the same reasons.

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the claimed invention over the citations of record and other prior art. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite.

It is believed that the foregoing is fully responsive to the outstanding Office Action. It is submitted that the application is now in condition for allowance and such action is earnestly solicited. If any issues remain, a telephone conference with the Examiner is requested.

Respectfully submitted,



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